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STATE DOCUMENTS

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MONTANA CONSTITUTIONAL CONVENTION

1971-1972

REPORT OF COMMITTEE ON STYLE, DRAFTING, TRANSITION AND SUBMISSION

ON

EDUCATION AND PUBLIC LANDS

*No. X*

Date Reported: March 15, 1972

*John M. Shultz*, Chairman

*William F. Bushnell*, Vice Chairman



TO: Montana Constitutional Convention  
SUBJECT: EDUCATION AND PUBLIC LANDS

Ladies and Gentlemen:

The Committee on Style, Drafting, Transition and Submission transmits revisions of the above Article for consideration of the Convention.

Immediately following this letter you will find the above Article as revised by the Committee. Following that is the Article indicating (by underlining) words we have added and (by crossing out) words we have deleted from the Article as approved. Finally, there is an explanation of the changes we have made.

Sincerely,

John M. Schiltz  
John M. Schiltz, Chairman of the Committee on Style, Drafting, Transition and Submission

William A. Burkhardt  
William A. Burkhardt, Vice Chairman of the Committee on Style, Drafting, Transition and Submission



BE IT PROPOSED BY THE EDUCATION AND PUBLIC LANDS COMMITTEE:

That there be a new Article on Education to read as follows:

ARTICLE \_\_\_\_\_  
EDUCATION

7       Section 1. EDUCATIONAL GOALS AND DUTIES. It is the  
8 goal of the people to establish a system of education which  
9 will develop the full educational potential of each person.  
10 Equality of educational opportunity is guaranteed to  
11 each person of the state.

12 (2) The state recognizes the distinct and unique  
13 cultural heritage of the American Indians and is com-  
14 mitted in its educational goals to the preservation of  
15 their cultural integrity.

24           Section 2. PUBLIC SCHOOL FUND. The public school  
25 fund of the state shall consist of: (1) Proceeds from the  
26 school lands which have been or may hereafter be granted  
27 by the United States.

28 (2) Lands granted in lieu thereof,

29 (3) Lands given or granted by any person or corporation  
30 under any law or grant of the United States.

1 (4) All other grants of land or money made from the  
2 United States for general educational purposes or no other  
3 special purpose,

(5) All interests in estates that escheat to the state,

5 (6) All unclaimed shares and dividends of any corporation  
6 incorporated in the state,

7 (7) All other grants, gifts, devises or bequests made  
8 to the state for general educational purposes.

9           Section 3. PUBLIC SCHOOL FUND INVIOLENTE. The public  
10 school fund shall forever remain inviolate, guaranteed by  
11 the state against loss or diversion.

12       Section 4. BOARD OF LAND COMMISSIONERS. The governor,  
13 superintendent of public instruction, auditor, secretary of  
14 state, and attorney general constitute the board of land  
15 commissioners. It has the direction, control, leasing,  
16 exchange, and sale of the school lands and lands which have  
17 been or may be granted for the support and benefit of the  
18 various state educational institutions, under such regulations  
19 and restrictions as may be provided by law.

20           Section 5. PUBLIC SCHOOL FUND REVENUE. (1) Ninety-  
21        five percent of all the interest received on the public  
22        school fund and ninety-five percent of all rent received  
23        from the leasing of school lands and all other income from  
24        the public school fund shall be equitably apportioned  
25        annually to public elementary and secondary school districts  
26        as provided by law.

27 (2) The remaining five percent of all interest  
28 received on the public school fund, and the remaining  
29 five percent of all rent received from the leasing of  
30 school lands and all other income from the public school

1 fund shall annually be added to the public school fund and  
2 become and forever remain an inseparable and inviolable part  
3 thereof.

4       Section 6. AID PROHIBITED TO SECTARIAN SCHOOLS. (1)  
5 The legislature, counties, cities, towns, school districts,  
6 and public corporations shall not make any direct or indirect  
7 appropriation or payment from any public fund or monies, or  
8 any grant of lands or other property for any sectarian pur-  
9 pose or to aid any church, school, academy, seminary, college,  
10 university, or other literary or scientific institution,  
11 controlled in whole or in part by any church, sect, or  
12 denomination.

13       (2) This section shall not apply to funds from federal  
14 sources provided to the state for the express purpose of  
15 distribution to non-public education.

16       Section 7. NON-DISCRIMINATION IN EDUCATION. No  
17 religious or partisan test or qualification shall be  
18 required of any teacher or student as a condition of  
19 admission into any public educational institution. Atten-  
20 dance shall not be required at any religious service. No  
21 sectarian tenets shall be advocated in any public educational  
22 institution of the state. No person shall be refused admission  
23 to any public educational institution on account of sex,  
24 race, creed, religion, political beliefs, or national  
25 origin.

26       Section 8. SCHOOL DISTRICT TRUSTEES. The supervision  
27 and control of schools in each school district shall be  
28 vested in a board of trustees to be elected as provided by law.

29       Section 9. BOARDS OF EDUCATION. (1) There is a  
30 state board of education composed of the board of regents of

1 higher education and the board of public education.  
2 It is responsible for long-range planning, and for coordinating  
3 and evaluating policies and programs for the state's educa-  
4 tional systems. It shall submit unified budget requests. A  
5 tie vote at any meeting may be broken by the governor, who is  
6 an ex officio member of each component board.

7 (2) (a) The government and control of the Montana  
8 university system is vested in a board of regents of higher  
9 education which shall have full power, responsibility, and  
10 authority to supervise, coordinate, manage and control the  
11 Montana university system and shall supervise and coordinate  
12 other public educational institutions assigned by law.

13 (b) The board consists of seven members appointed by  
14 the governor, and confirmed by the senate, to overlapping  
15 terms, as provided by law. The governor and superintendent  
16 of public instruction are ex officio non-voting members of  
17 the board.

18 (c) The board shall appoint a commissioner of higher  
19 education and prescribe his term and duties.

20 (d) The funds and appropriations under the control of  
21 the board of regents are subject to the same audit provisions  
22 as are all other state funds.

23 (3) (a) There is a board of public education to  
24 exercise general supervision over the public school system  
25 and such other public educational institutions as may be  
26 assigned by law. Other duties of the board shall be  
27 provided by law.

28 (b) The board consists of seven members appointed by  
29 the governor, and confirmed by the senate, to overlapping  
30 terms as provided by law. The governor, commissioner of

1       higher education and state superintendent of public instruction  
2       shall be ex officio non-voting members of the board.

3           Section 10. STATE UNIVERSITY FUNDS. The funds of  
4       the Montana university system and of all other state  
5       institutions of learning, from whatever source accruing,  
6       shall forever remain inviolate and sacred to the purpose  
7       for which they were dedicated. The various funds shall be  
8       respectively invested under such regulations as may be  
9       provided by law, and shall be guaranteed by the state  
10      against loss or diversion. The interest from such invested  
11     funds, together with the rent from leased lands or properties,  
12     shall be devoted to the maintenance and perpetuation of the  
13     respective institutions.

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1 BE IT PROPOSED BY THE EDUCATION AND PUBLIC LANDS COMMITTEE:

2 That there be a new Article on Education to read as  
3 follows:

4

5 ARTICLE —

6 EDUCATION

7 Section 1. EDUCATIONAL GOALS AND DUTIES OF-THE-STATE.

8 (1) It ~~shall-be~~ is the goal of the people of-Montana to  
9 ~~provide-for-the establishment-of~~ a system of education which  
10 will develop the full educational potential of each person.  
11 Equality of educational opportunity ~~shall-be~~ is guaranteed  
12 to each person of the state.

13 (2) The state recognizes the distinct and unique  
14 cultural heritage of the American Indians and is committed  
15 in its educational goals to the preservation of their  
16 cultural integrity.

17 (2) The legislature shall provide ~~for~~ a basic  
18 system of quality free public elementary and secondary  
19 schools. The legislature may ~~also~~ provide ~~for~~ such other  
20 educational institutions, public libraries, and educational  
21 programs as ~~are-deemed~~ it deems desirable. It shall fund  
22 and distribute in an equitable manner to the school districts  
23 of-the-state the state's share of the cost of the basic  
24 elementary and secondary school system.

25 Section 2. PUBLIC SCHOOL FUND. The public school  
26 fund of the state shall consist of: ~~the~~ (1) ~~p~~Proceeds of  
27 ~~such from the school lands as which~~ have ~~heretofore~~ been  
28 granted, or may hereafter be granted, ~~to~~-the-state by the  
29 ~~generat-government~~ known as school lands, United States,  
30 and-these (2) Lands granted in lieu ~~of-sach;thereof~~,

1       (3) ~~Lands acquired given or granted by gift-or-grant-from~~  
2       any person or corporation under any law or grant of the  
3       general-government; United States, and of (4) ~~a~~All other  
4       grants of land or money made ~~to-the-state~~ from the general  
5       government United States for general educational purposes,  
6       or where no other special purpose, ~~is-indicated-in-sueh~~  
7       grant; (5) ~~a~~All interests in estates, or-distributive  
8       shares-~~of~~-estates that may escheat to the state; (6) ~~a~~All  
9       unclaimed shares and dividends of any corporation incorpor-  
10      ated ~~under-the-laws-of~~ in the state, and (7) ~~a~~All other  
11      grants, gifts, devises or bequests made to the state for  
12      general educational purposes.

13      Section 3. PUBLIC SCHOOL FUND INVOLATE. The public  
14      school fund shall forever remain inviolate, guaranteed by  
15      the state against loss or diversion.

16      Section 4. BOARD OF LAND COMMISSIONERS. The governor,  
17      superintendent of public instruction, ~~state~~ auditor, secre-  
18      tary of state, and attorney general ~~shall~~ constitute the  
19      state board of land commissioners, ~~which-shall-have~~ It has  
20      the direction, control, leasing, exchange, and sale of the  
21      school lands ~~of-the-state~~, and the lands ~~granted-or~~ which  
22      have been or may hereafter be granted for the support and  
23      benefit of the various state educational institutions, under  
24      such regulations and restrictions as may be prescribed  
25      provided by law.

26      Section 5. PUBLIC SCHOOL FUND REVENUE. (1) Ninety-  
27      five percentum-~~{95%}~~ of all the interest received on the  
28      public school funds-~~of-the-state~~, and ninety-five percentum  
29      ~~{95%}~~ of all rents received from the leasing of school lands  
30      and ~~of~~ all other income from the public school funds shall

1 be equitably apportioned annually to public elementary and  
2 secondary school districts as provided by law.

3       (2) The remaining five percentum-~~{5%}~~ of all the  
4 interest received on the public school funds-~~of-the-state~~,  
5 and the remaining five percentum-~~{5%}~~ of all the rents  
6 received from the leasing of school lands and ~~of~~ all other  
7 income from the public school funds, shall annually be  
8 added to the public school funds-~~of-the-state~~-and become  
9 and forever remain an inseparable and inviolable part  
10 thereof.

11       Section 6. AID PROHIBITED TO SECTARIAN SCHOOLS. (1)

12       Neither ~~the legislative assembly legislature, nor any~~  
13 ~~county counties, city cities, town towns, or school dis-~~  
14 ~~tricts, or other and public corporations, shall ever not~~  
15 ~~make directly-or-indirectly, any direct or indirect appro-~~  
16 ~~priation, or pay payment from any public fund or monies~~  
17 ~~whatever, or make any grant of lands or other property~~  
18 ~~for any sectarian purpose or to in aid of any church, or~~  
19 ~~for any sectarian purpose, or to aid in the support of any~~  
20 ~~school, academy, seminary, college, university, or other~~  
21 ~~literary, or scientific institution, controlled in whole~~  
22 ~~or in part by any church, sect, or denomination whatever.~~

23       (2) This section shall not apply to funds from federal  
24 sources provided to the state for the express purpose of  
25 distribution to non-public education.

26       Section 7. NON-DISCRIMINATION IN EDUCATION. No  
27 religious or partisan test or qualification shall ever be  
28 required of any person teacher or student as a condition  
29 of admission into any public educational institution ~~of~~  
30 ~~the-state, either as teacher or student, nor shall~~

1 aAttendance shall not be required at any religious service.  
2 ~~whatever,-nor-shall-any~~ No sectarian tenets shall be advocated  
3 in any public educational institution of the state,~~,nor-shall~~  
4 ~~any~~ No person shall be debarred refused admission to any public  
5 educational institution ~~ef-learning~~ on account of sex, race,  
6 creed, religion, political beliefs, or national origin.

7 Section 8. SCHOOL DISTRICT TRUSTEES ELECTIONS. The  
8 supervision and control of schools in each school district  
9 shall be vested in a ~~school~~ board- ~~The-legislative-assembly~~  
10 ~~shall-provide-for-elections of school-district trustees to~~  
11 be elected as provided by law.

12 Section 9. (1) STATE BOARDS OF EDUCATION. (1) There  
13 ~~shall-be~~ is a state board of education composed of the ~~B~~board  
14 of regents of higher education ~~Publie-Education~~ and the ~~B~~board  
15 of public education ~~Regents-of-Higher-Education-as-hereafter~~  
16 designated. It ~~shall-be~~ is responsible for long-range planning,  
17 and for coordinating and evaluation-of evaluating policies,  
18 and programs, for the state's educational systems. It shall  
19 submit unified budget requests. ~~In-ease-of-a~~ A tie vote at  
20 ~~a~~ any meeting may be broken by the governor, who is an ex  
21 officio member of each component board,~~,-may-east-a-vote.~~

22 (2) (3) BOARD-OF-PUBLIC-EDUCATION. (a) There ~~shall-be~~  
23 is a board of public education ~~which-shall~~ to exercise general  
24 supervision over the public school system and such other  
25 public educational institutions as may be assigned by law.  
26 Other duties of the board shall be provided by law. (b) Said  
27 The board shall consists of seven members appointed by the  
28 governor, with-confirmation-of and confirmed by the senate,  
29 to overlapping terms as provided by law. The governor,  
30 commissioner of higher education and state superintendent of

1       public instruction shall be ex officio non-voting members of  
2       the board. ~~The-duties-of-this-board-and-of-the-superintendent~~  
3       ~~of-public-instruction-shall-be-prescribed-by-law.~~

4       (3) (a) The government and control of the Montana  
5       University ~~System shall be~~ is vested in a board of regents  
6       of higher education who shall be selected as provided herein.  
7       The regents which shall have full power, responsibility, and  
8       authority to supervise, coordinate, manage and control the  
9       Montana University ~~System~~ and shall supervise and coordinate  
10      other public educational institutions ~~which may be~~ assigned by  
11      law. (b) Said The board ~~shall~~ consists of seven members  
12      appointed by the governor, and confirmed by the senate, to  
13      overlapping terms, ~~subject to confirmation by the senate,~~  
14      under regulations as provided by law. ~~The board shall~~  
15      appoint a commissioner of higher education and prescribe his  
16      term and duties. The governor and superintendent of public  
17      instruction ~~shall be~~ are ex officio non-voting members of  
18      this the board. (c) The board shall appoint a commissioner  
19      of higher education and prescribe his term and duties. (d)  
20      The funds and appropriations under the control of the board  
21      of regents shall be are subject to the same audit provisions  
22      as are all other state funds ~~of the state.~~

23       Section 10 ~~12~~. STATE UNIVERSITY FUNDS. The funds of the  
24      state Montana university system and of all other state  
25      institutions of learning, from whatever source accruing,  
26      shall forever remain inviolate and sacred to the purpose for  
27      which they were dedicated. The various funds shall be  
28      respectively invested under such regulations as may be pre-  
29      scribed provided by law, and shall be guaranteed by the state  
30      against loss or diversion. The interest of said from such

1 invested funds, together with the rents from leased lands  
2 or properties, shall be devoted to the maintenance and  
3 perpetuation of these the respective institutions.

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BE IT PROPOSED BY THE EDUCATION AND PUBLIC LANDS COMMITTEE:

2           That there be a new Article on Public Lands to read  
3           as follows:

## ARTICLE

## PUBLIC LANDS

7       Section 1. PUBLIC LAND TRUST, DISPOSITION. (1) All  
8       lands of the state that have been or may be granted by  
9       congress, or acquired by gift or grant or devise from any  
10      person or corporation, shall be public lands of the state.  
11      They shall be held in trust for the people, to be disposed  
12      of as hereafter provided, for the respective purposes for  
13      which they have been or may be granted, donated or devised.

14       (2) No such land or any estate or interest therein  
15       shall ever be disposed of except in pursuance of general  
16       laws providing for such disposition, or until the full  
17       market value of the estate or interest disposed of, to be  
18       ascertained in such manner as may be provided by law, has  
19       been paid or safely secured to the state.

25       (4) All public land shall be classified by the board  
26       of land commissioners in a manner provided by law. Any  
27       public land may be exchanged for other land, public or  
28       private, which is equal in value and, as closely as  
29       possible, equal in area.

BE IT PROPOSED BY THE EDUCATION AND PUBLIC LANDS COMMITTEE:

2 That there be a new Article on Public Lands to read  
3 as follows:

## ARTICLE

## PUBLIC LANDS

7       Section 1. PUBLIC LAND TRUST, DISPOSITION. (1) All lands  
8       of the state that have been or ~~that~~ may hereafter be granted  
9       ~~to-the-state~~ by congress, ~~and-all-lands~~ or acquired by gift or  
10      grant or devise, from any person or corp. ~~ation~~, shall be  
11      public lands of the state, and They shall be held in trust for  
12      the people, to be disposed of as hereafter provided, for  
13      the respective purposes for which they have been or may be  
14      granted, donated or devised. and-none-of

21       (3) No lands which the state holds by grant from the United  
22       States ~~in-any-case-in~~ which prescribes the manner of disposal  
23       and minimum price ~~are-so-prescribed~~ shall be disposed of  
24       except in the manner and for at least the price prescribed ~~in~~  
25       ~~the-grant-thereof~~, without the consent of the United States. Said

26       (4) All public lands shall be classified by the board of  
27 land commissioners in a manner prescribed provided by law. Any  
28 of-said public lands may be exchanged for other lands, public  
29 or private, which are is equal in value and, as closely as  
30 possible, equal in area.

EDUCATION - Report No. X

### Comments on Style, Form, and Grammar

3        Section 1. Deletions remove two "false imperatives";  
4        they do not alter substance. That comment follows upon the  
5        conclusion that there is no substantive difference between  
6        "provide" and "provide for."

7        Section 2. Serving the cause of comprehension by ordering  
8        does not alter substance.

#### 9 Section 4. Changes do not alter substance.

## 10 Section 5. Changes do not alter substance.

## II Section 6. Changes do not alter substance.

12 Section 7. No change in substance.

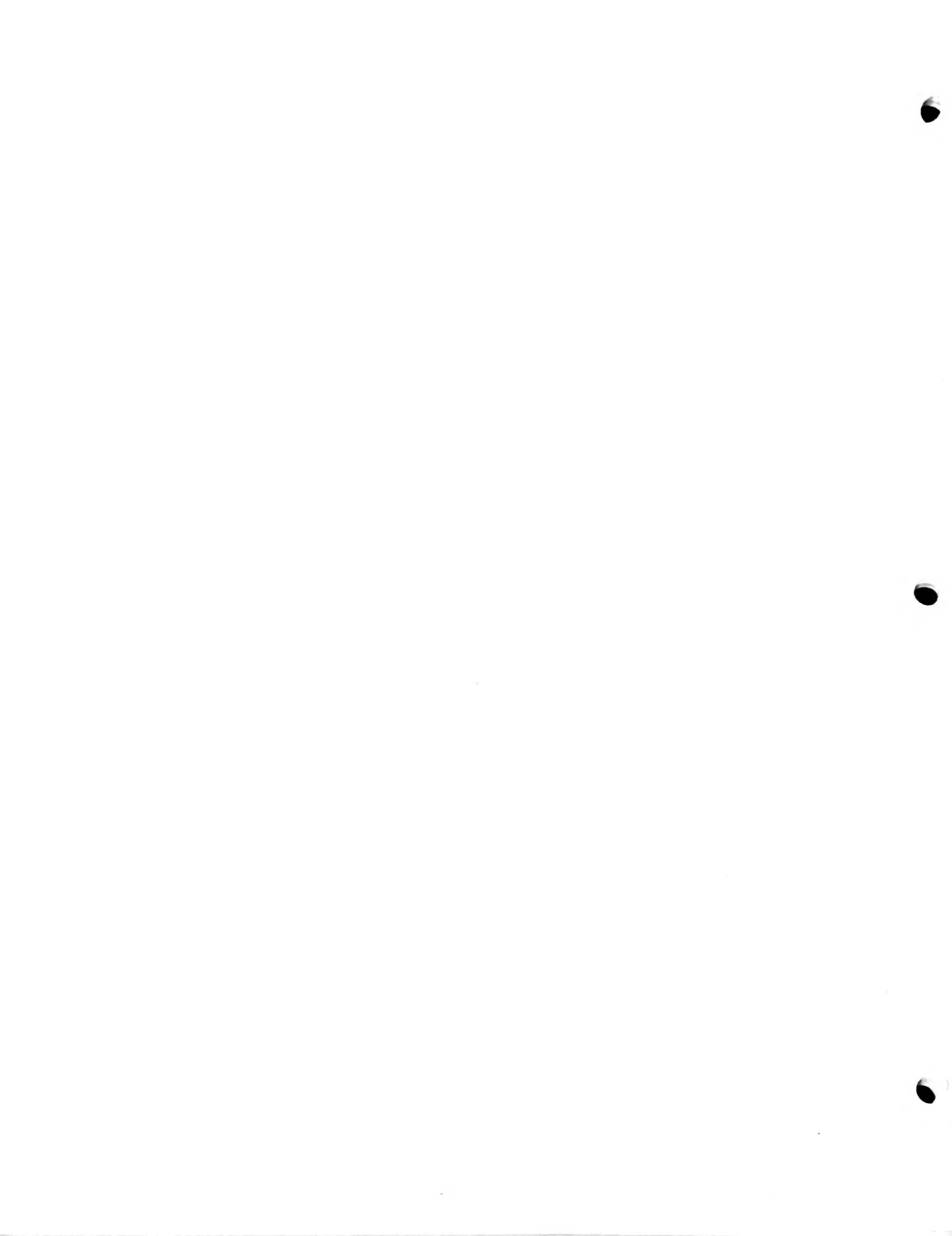
13        Section 8. The title was changed to accord with the sub-  
14        stance.

15        Section 9. Deleting subsection titles and reordering does  
16 not change substance.

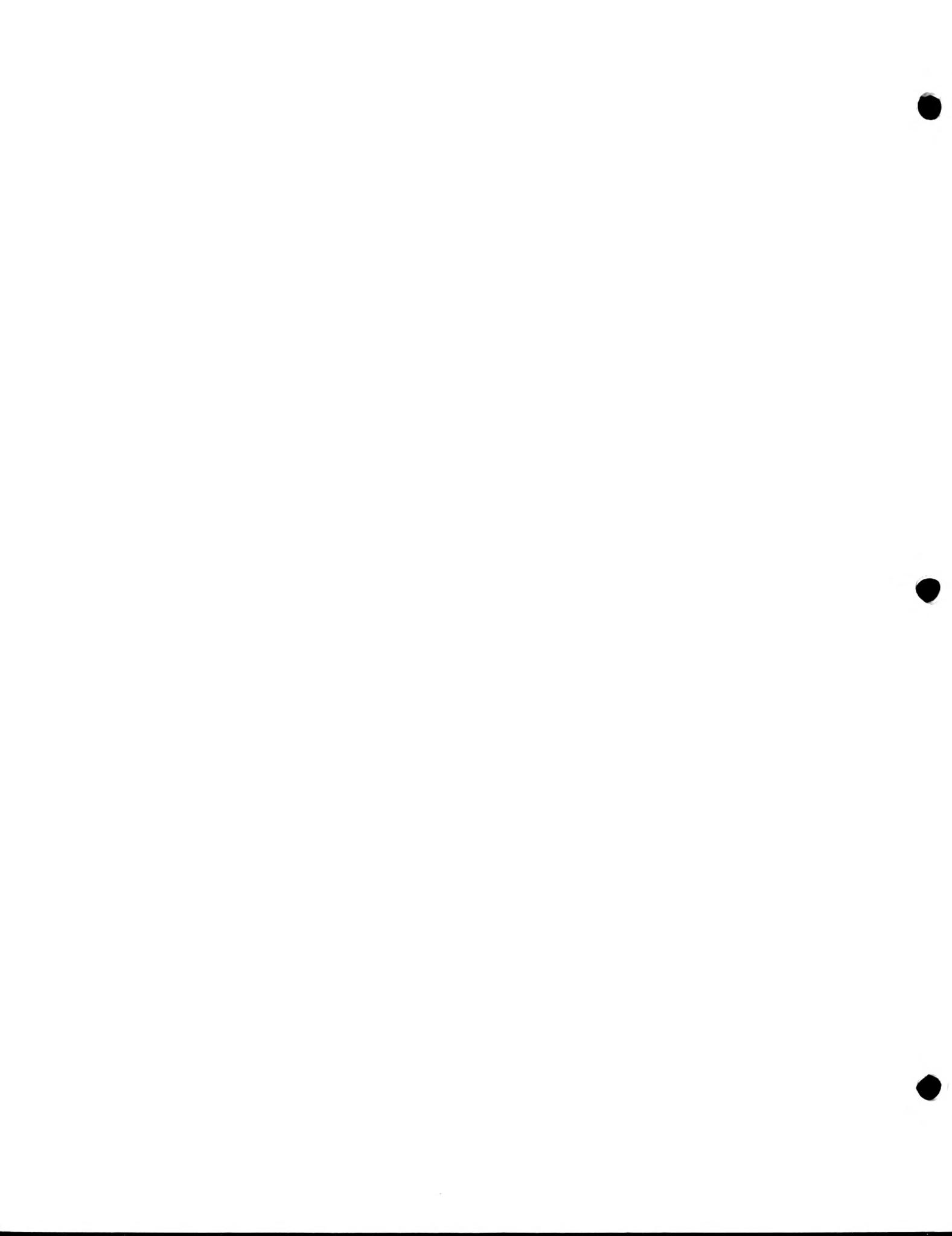
17 Section 10. (Renumbered from 12). No change in substance.

## PUBLIC LANDS

21 Section 1. Providing subsections and altering style do  
22 not change substance.







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STATE DOCUMENTS  
MAR 20 1972

1 ORDER OF BUSINESS NO. 5 - FINAL CONSIDERATION

2 STYLE AND DRAFTING - EDUCATION - REPORT NO. X

3 ARTICLE

4 EDUCATION

5 Section 1. EDUCATIONAL GOALS AND DUTIES. (1) It is the  
6 goal of the people to establish a system of education which  
7 will develop the full educational potential of each person.  
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11 cultural heritage of the American Indians and is com-  
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15 of free quality public elementary and secondary schools.  
16 The legislature may provide such other educational insti-  
17 tutions, public libraries, and educational programs as it  
18 deems desirable. It shall fund and distribute in an  
19 equitable manner to the school districts the state's share  
20 of the cost of the basic elementary and secondary school  
21 system.

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23 fund of the state shall consist of: (1) Proceeds from the  
24 school lands which have been or may hereafter be granted  
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28 under any law or grant of the United States,

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30 United States for general educational purposes or without

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7 pose or to aid any church, school, academy, seminary, college,  
8 university, or other literary or scientific institution,  
9 controlled in whole or in part by any church, sect, or  
10 denomination.

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1 and evaluating policies and programs for the state's educa-  
2 tional systems. It shall submit unified budget requests. A  
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6 university system is vested in a board of regents of higher  
7 education which shall have full power, responsibility, and  
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9 Montana university system and shall supervise and coordinate  
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13 terms, as provided by law. The governor and superintendent  
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16 (c) The board shall appoint a commissioner of higher  
17 education and prescribe his term and duties.

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20 as are all other state funds.

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22 exercise general supervision over the public school system  
23 and such other public educational institutions as may be  
24 assigned by law. Other duties of the board shall be  
25 provided by law.

26 (b) The board consists of seven members appointed by  
27 the governor, and confirmed by the senate, to overlapping  
28 terms as provided by law. The governor, commissioner of  
29 higher education and state superintendent of public instruction  
30 shall be ex officio non-voting members of the board.

1       Section 10. STATE UNIVERSITY FUNDS. The funds of  
2 the Montana university system and of all other state  
3 institutions of learning, from whatever source accruing,  
4 shall forever remain inviolate and sacred to the purpose  
5 for which they were dedicated. The various funds shall be  
6 respectively invested under such regulations as may be  
7 provided by law, and shall be guaranteed by the state  
8 against loss or diversion. The interest from such invested  
9 funds, together with the rent from leased lands or properties,  
10 shall be devoted to the maintenance and perpetuation of the  
11 respective institutions.

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ORDER OF BUSINESS NO. 5 - FINAL CONSIDERATION  
STYLE & DRAFTING - PUBLIC LANDS - Report NO. X

## ARTICLE

## PUBLIC LANDS

Section 1. PUBLIC LAND TRUST, DISPOSITION. (1) All lands of the state that have been or may be granted by congress, or acquired by gift or grant or devise from any person or corporation, shall be public lands of the state. They shall be held in trust for the people, to be disposed of as hereafter provided, for the respective purposes for which they have been or may be granted, donated or devised.

(2) No such land or any estate or interest therein shall ever be disposed of except in pursuance of general laws providing for such disposition, or until the full market value of the estate or interest disposed of, to be ascertained in such manner as may be provided by law, has been paid or safely secured to the state.

(3) No land which the state holds by grant from the United States which prescribes the manner of disposal and minimum price shall be disposed of except in the manner and for at least the price prescribed without the consent of the United States.

(4) All public land shall be classified by the board of land commissioners in a manner provided by law. Any public land may be exchanged for other land, public or private, which is equal in value and, as closely as possible, equal in area.